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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/884,478	06/20/2001	Peter T. Bianco	731260-12	9571
21967 7590 01/29/2008 HUNTON & WILLIAMS LLP INTELLECTUAL PROPERTY DEPARTMENT 1900 K STREET, N.W. SUITE 1200 WASHINGTON, DC 20006-1109			EXAMINER GLASS, RUSSELL S	
			ART UNIT 3626	PAPER NUMBER
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

09/884,478

Applicant(s)

BIANCO ET AL.

Examiner

SHAY S. GLASS

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— The MAILING DATE of this communication appears on the cover sheet with the correspondence address —

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11/21/2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-48 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-48 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Notice to Applicant

1. This action is a final office action on the merits in response to the amendment filed on 11/21/2007.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. **Claims 1-13, 15-19, 25-39, and 41-46 are rejected under 35 U.S.C. 103(a) as being unpatentable over Joao, (U.S. Pub. 2001/0032099) in view of Soll et al., (U.S. Pub. 2003/0055679).**

3. As per claim 13, the collective system of Joao and Soll disclose a post-diagnosis method for guiding a patient along a treatment pathway associated with a previously diagnosed medical condition requiring a medical event by providing health information to educate and prepare the patient for the medical event and post-medical event recovery, (Soll, Abstract, ¶¶ 64, 65, 97, 174-183), comprising the steps of:

- (a) generating, based on the medical event of the patient, at least one pre-medical event set of electronically displayable files containing health information, and at least

one post-medical event set of electronically displayable files containing health information, (Joao, Abstract, ¶¶ 135, 152)(see also Soll, 62, 64, 174);

(b) displaying a single electronically displayable file including a treatment pathway timeline display comprising a plurality of time-sequenced phase images corresponding to time-sequenced phases of health information to illustrate the treatment pathway, each of said time-sequenced phase images providing access to at least one of a pre-medical event set of electronically displayable files containing health information for preparing and educating the patient for the medical event and a post-medical event set of electronically displayable files containing health information for preparing and educating the patient for post-event recovery so as to guide the patient along the treatment pathway, (Soll, Abstract, Fig. 2 ¶¶ 64, 65, 80, 97, 157, 159, 174-183)(displaying information to be accessed under each heading by date is considered to be analogous to including a treatment pathway timeline display comprising a plurality of time-sequenced phase images corresponding to time-sequenced phases of health information)(see also Joao, Fig. 3 regarding the display step); and

(c) permitting the patient to view the treatment pathway timeline display and access the health information of a particular time-sequenced phase by interacting with the corresponding time-sequenced phase image, (Soll, Abstract, ¶¶ 157, 159, 181, 184-190)(accessing information under each heading by date is considered to be analogous to accessing the health information of a particular time-sequenced phase by interacting with the corresponding time-sequenced phase image)(see also Joao, ¶¶ 19, 24 regarding patient access); and,

both (1) the at least one pre-medical event set of electronically displayable files containing health information for preparing and educating the patient for the medical event and (2) the at least one post-medical event set of electronically displayable files are pre-determined such that the files are stored in the healthcare information provider system, (Joao, ¶¶ 23, 66, 69, 120, 123, 150), in anticipation of the medical event and prior to the medical event, and such that the files are related so as to provide a treatment pathway, (Soll, ¶ 64, 65) (disclosing pre-medical event files for priming a patient, and post-event files for exit interviews, both of which are related so as to provide a treatment pathway).

Joao discloses a system that can be utilized by any patient or provider in the same manner. As referenced above, Joao discloses an electronic patient healthcare system comprising a storage device and a patient terminal device, with input and display capabilities, for storing and processing patient and doctor information. Joao fails to disclose a system for guiding a patient along a treatment pathway, related to a medical event, by educating and preparing the patient for the medical event and post-event recovery. However, such a system is well known in the art as shown above by reference to Soll.

It would be obvious to one of ordinary skill in the art to combine Joao and Soll. The motivation would be to improve health care delivery to patients and better manage the process of providing health care, such system also providing high-quality health care at lower costs, (Soll, Abstract).

4. As per claim 15, the collective system of Joao and Soll disclose the post-

diagnosis method of claim 13. Soll further discloses a method wherein at least one of the pre-medical event and post-medical event sets of files includes a task file that instructs the patient to perform a predetermined task, (Soll, ¶¶ 174-183)(predetermined tasks include evaluating the medical practitioner and to scheduling an appointment).

The obviousness and motivation to combine Joao and Soll are as provided in claim 1 above and incorporated herein by reference.

5. As per claim 16, the collective system of Joao and Soll disclose the post-diagnosis method of claim 15. Soll further discloses a post-diagnosis method wherein the predetermined task includes at least three of reading a medical information file, taking medication, scheduling an appointment with a medical professional, purchasing a medical product, taking a medical quiz, and evaluating at least one of a medical practitioner and a medical service facility, (Soll, ¶¶ 174-190)(pre-determined tasks include evaluating the medical practitioner, scheduling an appointment, and taking a medical quiz using the revisit strategy file or the exit interview file).

The obviousness and motivation to combine Joao and Soll are as provided in claim 13 above and incorporated herein by reference.

6. As per claim 17, the collective system of Joao and Soll disclose the post-diagnosis method of claim 13. Joao further discloses a post-diagnosis method wherein at least one of the pre-medical event and post-medical event sets of files includes a calendar file that displays a schedule of time specific events associated with the treatment pathway, said calendar file adapted to be modified by the patient using the input device of the patient terminal device, (Joao, ¶¶ 148, 150, 152, 266-270)(an

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appointment schedule is considered to be analogous to a calendar file that displays a schedule of time specific events associated with the treatment pathway).

The obviousness and motivation to combine Joao and Soll are as provided in claim 13 above and incorporated herein by reference.

7. As per claim 18, the collective system of Joao and Soll disclose the post-diagnosis method of claim 13. Joao further discloses a method further including the step of providing an electronically displayable duplicate account file containing input fields for receiving account information relating to an authorized user to create a duplicate account for permitting the authorized user to access and modify the patient's treatment pathway, (Joao, ¶¶ 24-28)(a user, payer and/or intermediary utilizing the system in the same or similar manner as a patient or provider is analogous to an authorized user with a duplicate account for access and modification).

The obviousness and motivation to combine Joao and Soll are as provided in claim 13 above and incorporated herein by reference.

8. Claims 14, 20-24, 40, 47, and 48 are rejected under 35 U.S.C. 103(a) as being unpatentable over the collective system of Joao and Soll as applied to claims 13, 19, and 39 above, and further in view of Schoenburg et al., (U.S. 6,463,417).

9. As per claim 14, the collective system of Joao and Soll disclose the method of claim 13. However Joao and Soll fail to clearly disclose a method further including the steps of providing the patient with a medical practitioner code designating the medical practitioner conducting the medical event and requiring the patient to input the medical

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practitioner code into an electronically displayable file containing a code input field and transmitting the code to the healthcare information provider system.

Schoenburg discloses a method including the steps of providing the patient with a medical practitioner code designating the medical practitioner conducting the medical event and requiring the patient to input the medical practitioner code into an electronically displayable file containing a code input field and transmitting the code to the healthcare information provider system, (Schoenburg, Abstract, Fig. 2, Col. 3, lines 20-52; Col. 4, line 52 through Col. 5, line 40).

It would be obvious to one of ordinary skill in the art to combine Schoenburg into the collective system of Joao and Soll. The motivation would be to provide a method of and system for distributing medical information in which the medical provider has quick access to a patient's medical record, but only to the information in the medical record that is necessary for the proper treatment of the patient at that time, (Schoenburg, Col. 2, lines 16-22).

10. As per claim 47, the collective system of Joao, Soll, and Schoenburg disclose the method of claim 14. Schoenburg further discloses a method including providing general content to a further user who does not utilize a code, (Schoenburg, Abstract, Fig. 2, Col. 3, lines 20-52; Col. 4, line 52 through Col. 5, line 40).

Although Schoenburg does not specifically describe providing general content to a further user who does not utilize a code, Schoenburg clearly discloses creating a heirarchical data access system wherein the amount and content of data available can be adjusted between different users depending upon the code provided.

In view of Schoenburg, it would be obvious to providing general content to a further user who does not utilize a code. The motivation would be to create a system of hierarchial data categorizing the individual's medical information into privacy levels ranging from least private to most private, (Schoenburg, Abstract).

11. As per claim 48, the collective system of Joao, Soll, and Schoenburg disclose the method of claim 47. Joao further discloses a method wherein the general content includes at least one of a physicians directory, a graphical diagnostic, and product links, (Joao, ¶ 150, 151, 153)(database containing a physician's directory and insurance products).

The obviousness and motivation to combine Joao, Soll, and Schoenburg are as provided in the rejection claims 13 and 14 above and incorporated herein by reference.

12. As per claims 1-12 and 19-46, these claims directed toward system and storage media contain the same or similar limitations as those rejected above in this action and in the non-final rejection dated 5/21/2007.

Response to Arguments

Applicant's arguments filed 11/21/2007 have been fully considered but they are not persuasive for the following reasons:

As per Applicant's argument that Joao and Soll in combination fails to disclose a post-diagnostic system method and storage media that guides a user along a treatment pathway relating to a previously diagnosed medical condition requiring a previously diagnosed medical condition requiring a medical event that is not a diagnosis, it is

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submitted that Soll describes such a feature. Soll discloses a modular, interactive system for collecting the informed consent of patients for routine procedures, surgery, and clinical evaluations, (Soll, ¶ 97). Surgery as disclosed in Soll, is a medical event that is not a diagnosis. It is well known that surgery follows diagnosis. It would therefore be obvious to consider surgery to be post-diagnosis.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).


A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to SHAY S. GLASS whose telephone number is (571)272-3132. The examiner can normally be reached on M-F 8-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Thomas can be reached on 571-272-6776. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

RSG
1/21/2008



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